

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNIVERSAL CITY STUDIOS, INC., )

Plaintiff, )

vs. )

NINTENDO CO., LTD., and )  
NINTENDO OF AMERICA, INC., )

Defendants. )

NO. 82 CIV4259(RWS)

**ORIGINAL**

Deposition Upon Oral Examination of

RONALD J. JUDY

Taken at 1900 Peoples National Bank Building, Seattle,  
Washington

APPEARANCES:

For the Plaintiff:

MARY D. FAUCHER  
Townley & Updike  
405 Lexington Avenue  
New York, New York 10174

For the Defendants:

JOHN J. KIRBY, JR.  
Mudge, Rose, Guthrie &  
Alexander  
20 Broad Street  
New York, New York 10005  
and  
JAMES L. MAGEE  
Sax & MacIver  
1900 Peoples National Bank  
Building  
Seattle, Washington 98171

DATE: December 16, 1982

REPORTED BY: Phylliss McLean, RPR

1 Q Have you ever seen or heard the words King Kong?  
2 A Yes.

3 Q When was the first time that you saw or heard those  
4 words?

5 A I don't recall.

6 Q Was it a year ago?

7 A Yes.

8 Q Do you recall in what context you heard those words  
9 or saw them?

10 A No.

11 Q Do you recall if you first saw the words or you heard  
12 them?

13 A I don't recall.

14 Q Are you familiar with the character King Kong?

15 MR. KIRBY: I am not sure I understand what  
16 you mean by that.

17 Q I think -- do you understand what I mean by that?

18 A No.

19 Q What do the words King Kong denote to you, if anything?

20 A I really don't understand.

21 Q Do the words King Kong denote anything to you, for  
22 example, the name of something?

23 A The movie.

24 Q Apart from a movie, do the words King Kong denote the  
25 name of an animal or person or anything like that?

1 A I associate it with a monkey named King or a gorilla  
2 named King.

3 Q Have you seen the 1933 film King Kong?

4 A Not that I recall.

5 Q Have you seen the 1976 movie version of King Kong?

6 A Not that I recall.

7 Q Have you ever read King Kong books?

8 A Not that I recall.

9 Q Can you recall any context in which you have heard or  
10 seen the words King Kong?

11 A In reference to a movie.

12 Q Reading an article or something telling you about it?

13 MR. KIRBY: Mary, this gets obviously  
14 very difficult. I am not sure what it is you are  
15 trying to get from Mr. Judy, and I don't think he is  
16 very sure either. I mean, if you are just asking if  
17 he remembers out of the old times, if he may have ever  
18 heard King Kong anywhere in his 37 years --

19 THE WITNESS: Come on, 34.

20 MR. KIRBY: Thirty-four, excuse me. In his  
21 34 years, you know, just pick out any single one of  
22 them and tell you --

23 MS. FAUCHER: I am asking him if he can  
24 recall any particular context.

25 MR. KIRBY: Any particular one, I mean, if

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1 Donkey Kong, and I am now talking about in the summer  
2 of 1981 when you began to solicit the sales for Donkey  
3 Kong, did you also tell the distributors the name of  
4 the game?

5 A Yes.

6 Q Did any distributor comment to you on the name of the  
7 game?

8 A Yes.

9 Q How many distributors commented on the game?

10 A I can't recall, most.

11 Q How many distributors did you deal with in the summer  
12 of '81?

13 A Sixty. Some distributors had multiple offices, and  
14 you deal with one individual for sales to all of the  
15 offices; others you deal with each office independently.  
16 So, it could vary.

17 Q Most of the 60 distributors commented on the name  
18 Donkey Kong?

19 A Yes.

20 Q What were the comments?

21 A Pretty pornographic, Donkey Dong, it's a stupid name.  
22 The general feeling was it was a stupid name. They  
23 didn't understand the name. As I said, most were  
24 pornographic comments.

25 Q Did any of the distributors, in commenting on the name

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1 else?

2 A I don't recall. I believe Al Stone was there.

3 Q Do you know if Al Stone was also consulted as to  
4 whether the game should be imported and distributed  
5 or not?

6 A Informally, yes.

7 Q Why did you request that the name be changed?

8 A At that time in the video industry, the games that were  
9 successful had very macho type of names. This was  
10 clearly a very stupid name, which my recommendation was  
11 for, the U.S. market, it would not be satisfactory.

12 Q Can you give me an example of the type of macho names  
13 you are referring to?

14 A Defender, Astroids, Space Invader, Galaxia.

15 Q At the time that you gave your opinion to Mr. Arakawa  
16 that the name should be changed, had you spoken with  
17 any distributors about the game?

18 A I am sure the first time I mentioned it to him, no.

19 Q The first time you mentioned it to Mr. Arakawa?

20 A Yes.

21 Q Do you know if there were any attempts made by Mr.  
22 Arakawa to have the name changed?

23 A It is my understanding that there were.

24 Q What is your understanding as to what those attempts  
25 were?

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1 Q Have you ever seen any telexes from or to Mr. Arakawa  
2 regarding his requests to change the name of the game?  
3 A Not that I recall.

4 Q Do you think the name of a video arcade game is  
5 important to its success?

6 A A name will not turn a bad game into a good game and  
7 make it successful. If it is a poor game, no matter  
8 what the name is, it is a poor game. If I have a good  
9 game, I probably would prefer to have a good name, also.

10 Q What do you think are the various factors that make a  
11 video game successful?

12 A Play appeal to the final consumer.

13 Q By play appeal, do you mean the ease or the difficulty  
14 of play or the actual object of the game or the  
15 graphics in a game, or is it a combination of all of  
16 those things?

17 A It is a combination of many, many things.

18 Q Including those that I just mentioned?

19 Do you want to hear them again?

20 (A previous question was read  
21 back by the court reporter.)

22 A It would include those things.

23 Q Can you name any other factors?

24 A Sound, clarity, quality of controls, variety.

25 Q I would like you to give me your description of the

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1 creation of either the name Donkey Kong or the game  
2 Donkey Kong?

3 A No.

4 Q For example, when you saw the prototype of the game,  
5 you had no suggestions on how to change the play of  
6 the game, make it a different screen, or, you know,  
7 make the obstacles look different or at a different  
8 control?

9 A I had suggestions on how to change the game, yes.

10 Q What were those suggestions?

11 A Change the sequence of the four boards. The goal of  
12 that was to shorten the play time.

13 Q Any other suggested changes?

14 A Change the name.

15 Q Was your suggestion to change the sequence of the four  
16 boards adopted?

17 A Yes.

18 Q Since you first heard the words Donkey Kong, do you  
19 recall anyone discussing those words in relation to  
20 the words King Kong?

21 A No.

22 Q Do you recall reading any text which related the words  
23 Donkey Kong to the words King Kong?

24 A No.

25 MR. KIRBY: I assume, Mary, you are asking,

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1 and I assume his answer is prior to this lawsuit?

2 MR. FAUCHER: Yes.

3 Q By the way, did you review any documents before this  
4 deposition today in preparation for the deposition?

5 A No, I did not.

6 Q Did you discuss the deposition with anyone other than  
7 counsel?

8 A No. In our office, people know I am going to a  
9 deposition.

10 Q Yes, and, you said to your secretary, I won't be here  
11 because I will be in a deposition?

12 A Yes.

13 Q As part of your job responsibilities, do you have the  
14 responsibility for getting trademark registrations for  
15 any of Nintendo of America's properties?

16 A No, I don't.

17 Q So, you are not involved in trademark applications?

18 A No, I am not.

19 Q Do you have any responsibilities in policing or  
20 monitoring potential infringements of Nintendo of  
21 America's properties?

22 A I have the responsibility to pass along information  
23 which is received.

24 Q How would you receive information about potential  
25 infringements?



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1 A I recall the picture in the bottom left of the first  
2 page. I don't recall having read the article.

3 Q It appears to be an article from the March, 1982  
4 RePlay Magazine?

5 A Yes.

6 Q And, that is the RePlay Magazine that you referred to  
7 before as one of the trade publications?

8 A Yes, it is.

9 Q Do you recall being interviewed by anyone from RePlay  
10 Magazine for an article in their magazine?

11 A For any article?

12 Q Any articles.

13 A Not specifically, but, yes, I have been interviewed.

14 Q By reporters from RePlay?

15 A Yes.

16 Q Have you been interviewed from reporters from other  
17 trade magazines?

18 A Yes, I have.

19 Q Now, did you just read Exhibit No. 7?

20 A I scanned it.

21 Q I would like to refer you to the top of the second  
22 page of this exhibit in the first full paragraph. In  
23 that paragraph, if you read the paragraph, there is  
24 mention above it of a quotation attributed to you.

25 That statement is, "Donkey Kong has exceeded my

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1 expectations, and has probably just met Mr. Arakawa's,  
2 and I'd say soon to exceed his, also."  
3 Are you with me?

4 A Yes.

5 Q Is that an accurate quote; do you recall?

6 A I don't recall specifically.

7 Q The interviews or interview that you have had with  
8 the RePlay reporter, do you recall what the interview  
9 was about?

10 A Not specifically.

11 Q Was it about Donkey Kong?

12 A I am sure Donkey Kong was discussed in many of the  
13 interviews during the production run of Donkey Kong,  
14 yes.

15 Q In any of the interviews that you had with reporters  
16 from trade magazines, did you ever discuss the basis  
17 of the game Donkey Kong?

18 MR. KIRBY: I don't understand the question.

19 Q Well, I refer specifically on the first page of this  
20 exhibit to the third column, the first full paragraph,  
21 which states in the first sentence, "For those who  
22 don't already know, Donkey Kong is a cute game loosely  
23 based on the King Kong theme."

24 I am just wondering if in any interview that  
25 you had with any trade magazine reporters, if you